IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

FRIDAY, THE EIGHTEENTH DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.1488 OF 1997
AND
WRIT PETITION NO.1489 OF 1997

In W.P.No.1488 of 1997 :

Between:

1. Surumullu Bhaskara Rao,S/o.Late S.Appalaswamy,30 years,
2. A.Ramakrishnaiah, S/o.A.Nagaiah, 31 years,
3. D.Thimmappa, S/o.late D.Venkata Swamy,29 years,
4. K.Hemadri, S/o.K.Krishnaiah Chetty, 28 years,
5. B.Krishnaiah, S/o.B.Muneppa (late), 42 years,
6. P.Kodanda, S/o.P.Sorayakayalaswamy, 29 years,
7. G.Suseelamma, w/o G.Ramachandraiah, 33 years.
8. M.Devarajulu, S/o.M.Vajaravelu, 28 years,
9. A.China Swamy, S/o.A.Munaswamy, 35 years,
10. A.Subrahmanyam, S/o.A.Changamandadi, 48 years,
11. P.R. Venkateswarlu, S/o.P.Chinnarayudu, 35years,
12. M.Ravi Kumar, S/o.M.Muneppa, 32 years,
13. M.Yerraiah, s/o.M.Venkataswamy, 40 years,
14. G.Govindaiah, S/o.G.Gangulaiah, 42 years,
15. S.Maruthi, S/o. Rama Rao S., 40 years,
16. D.Devarajulu, S/o.D.Chennappa Naidu,30 yerars,
17. Y.Laxmamma, W/o.Y.Siddaiah, 45 years,

18. D.Venkatesu, s/o.D.Gorrappa, 31 years,
19. V.Narasimhulu, S/o.V.Lokanadham Naidu, 36 years,
20. A.Rudra Raju, s/o.A.Narayana Raju, 31 years,
21. B.Surya Babu, S/o.B.Govinda Swamy, 31 years,
22. B.Rajendra Prasad, S/o.B.Venkatachalamaiah, 30 years,
23. A.Uma Maheswara reddy, S/o.A.Muni Reddy, 29 years,
24. M.Thimmakka, W/o.M.Pakirappa, 31 years,
25. D.Vemaiah, S/o.D.Changalarayulu, 43 years,
26. P. Ramamma, W/o. K.Subbaramaiah, 33 years,
27. B.Gangaiah, S/o.B.Venkataiah, 37 years,
28. P.krishnamurthy, s/o.P.Venkataswamy, 28 years,
29. A.Srinivasulu reddy, S/o.A.Sundararami Reddy,28 years,
30. T.Ramachandraiah, S/o.T.Peddakrishnaiah,37years,
31. Y.Venkataiah, S/o.Y.Venkatesh, 32 years,
32. B.Siva Singh,s/o. K.Balaji Singh, 34 years,
33. A.Elumalai Reddy, S/o.A.Subrahmanyam Reddy,33 years,
34. P.Srinivasa Raju, S/o.P.Satyanarayana Raju, 30 years,
35. M.Suresh Kumar, S/o.MSR Murthy, 28 years,
36. P.Mallikarjuna, S/o.P.Munaswamy, 29 years,
37. G.Govindamma, S/o.G.Ganganna Gouda, 30 years,
38. P.Subrahmanyam, S/o.P.Pachappa, 33 years,
39. D.Roopa Sekhar, S/o.D.venkatarayulu, 31 years,
40. J.Subrahmanyam, S/o.J.Ratanaiah, 30 years,
41. P.Chandrasekhar, S/o.P.Chengalaraya Chetty, 39 years,
42. G.Kesavulu, S/o.G.Muniratnama, 30 years,
43. G.Nagaraja, s/io.G.Venkataswamy, 31 years,
44. N.Gangaiah, S/o.Husenappa N., 28 years,
45. B.Munikrishna Reddy, S/o.B.Govinda Reddy, 32 years,

46. G.Lokanadham, s/o.G.Krishnaiah, 32 years,
47. D.Meghanadhudu, S/o.Gurappa D., 40 years,
48. P.Ugandhar, S/o.P.Narayana swamy, 27 years,
49. N.Sujatha, W/o. -- , 30 years,
50. K.Venkateswarlu, S/o.Krishnappa K., 30 years,
51. Kudichetty Chandraiah, S/o.K.Ramaiah, 30 years,
52. V.Ramakrishnaiah, S/o.V.Venkataramana, 29 years,
53. M.Madhavaiah, S/o.M.Polaiah, 34 years,
54. G.Venkataramana, s/o. G.Uthanna, 29 years,
55. G.Ananda, S/o.G.Kanaiah, 34 years,
56. K.Munilakashmi, W/o.K.Nagaiah, 38 years,
57. R.Jayarami Reddy, S/o.R.Narayana Reddy, 32 years,
58. J.Dasaradhi, S/o.J.V.Narasimha Murthy, 28 years,
59. S.prabhavathi, W/o.A.Narayana, 34 years,
60. V.J.Munendra Babu, S/o.J.Ramaiah, 31 years,
61. B.Lakshmaiah, S/o.B.Gangulappa, 34 years,
62. D.Nageswara Rao, S/o.D.Rangaiah, 34 years,
63. M.Venkataramana, S/o.M.Venkatappa, 33 years,
64. S.S.Ravi, S/o. S.V.Subrahmanyam, 31 years,
65. K.Nagaiah, S/o.K.Venkatapathi Chetty, 43 years,
66. B.Venu, S/o.B.Darmalingam, 29 years,
67. K.Bhaskar, S/o.K.V. Krishna Murthy, 35 years,

All the petitioners are working as Helpers / Cleaners at S.V.Canteen Complex, Tirumala.

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PETITIONERS

AND

Tirumala Tirupathi Devasthanam, rep. by its

Executive Officer, Tirupathi, Chittoor District.

...RESPONDENT

In W.P.No.1489 of 1997 :

Between:

1 G.Nagarajan S/o.G.Gopal Chetty

S.V.Canteen Complex , Tirumala.

2 G.siddaiah S/o.G.Venkataiah

S.V.Canteen Complex , Tirumala.

3 SKCM Sarma S/o.S.Someshwara Sarma

T.T.D., Panchayat , Tirumala.

4 K.Subramanyam Raju S/o.K.S.Raaju

TTD , Transport, Tirumala.

5 M.Venkataramana Naidu S/o.M.Chinnanarsaiah Naidu

VGO Office, Tirumala.

6 EG.Krishnan Kutty S/o.K.Gopalan

S.V.Canteen Complex. Tirumala.

7 M.Ravi S/o.M.S.Mani

S.V.Canteen Complex, Tirumala.

8 S.Raghuraman S/o.Shengalvarayan

S.V.Canteen Complex Tirumala.

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PETITIONERS

AND

Tirumala Tirupathi Devasthanam Rep by its Executive Officer

Tirupathi, Chittoor Dist.

.....RESPONDENT

Both these Petitions under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction especially one in the nature of mandamus :

i. declaring the action of the respondents in not paying the Minimum Scale of Pay including the arrears

upto August, 1991 on par with other similarly situated employees as illegal, arbitrary and discriminatory;

ii. direct the respondent to pay minimum scale of pay including the arrears to the petitioners from the date of their appointment to August, 1991; and

iii. pass any such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioners: MR.K.VASUDEVA REDDY

In both the petitions.

Counsel for the Respondent : Mr. G.VENUGOPALA RAO

In both the petitions. SC for T.T.D.

The Court Made the Following :

COMMON ORDER :

In both these Writ Petitions, the petitioners are seeking a declaration that the action of Tirumala Tirupati Devasthanams (T.T.D.) in not paying the minimum scale of pay including the arrears upto August, 1991 on par with similarly situated employees is arbitrary and illegal.

The petitioners in both the Writ Petitions claim to have been working as Volunteers from the year 1985 in Sri Venkateswara Annadanam Canteen Complex and Sri Venkateswara Guest House Canteen, Tirumala respectively. All of them were initially engaged on daily wage basis. Subsequently, in terms of G.O.Ms.No.391, Revenue (ENDTS.III) Department, dated 06-05-1991 the services of all the petitioners along with other similarly situated NMRs / Casual Labourers, Temporary Employees and Volunteers working in various establishments of T.T.D. were regularized with effect from 01-08-1991. However, some of the said employees filed Writ Petitions in this

Court claiming scale of pay even for the period prior to their regularization. Their contention was that they were entitled for scale of pay on par with the regular employees from the date of their initial appointments since they have been discharging the similar nature of work along with other regular employees. Pending the said Writ Petitions, this Court granted interim directions to pay the minimum scale of pay as well as arrears to the petitioners therein. In compliance with the said orders, the petitioners therein have been paid the arrears upto 31-07-1991 in the minimum scale of pay. The grievance of the petitioners is that the said benefit has not been extended to them in spite of repeated requests. It is contended that there is no justifiable reason to deny the payment of arrears to them since such benefit has already been extended to similarly situated persons. In the circumstances, these two Writ Petitions are filed seeking the above relief.

In the counter-affidavits filed on behalf of the respondent, it is stated that nearly 169 volunteers of Annadanam Canteen filed Writ Petitions in the year 1988 seeking direction for payment of wages in the time scale of pay attached to their posts. Interim orders were granted by this Court directing the respondent to pay the salaries to the petitioners therein in the regular pay scale attached to the post after verifying the facts. Since there was no post of volunteer as per the service rules of T.T.D., the request of the petitioners therein could not be considered. However, they were permitted to draw the consolidated wages of Rs.650/- per month with effect from 05-07-1990 as per the Resolution No.287 dated 05-07-1990. That apart, proposals have been initiated for absorption of volunteers / unit workers numbering 1235. This Court having taken into consideration the aforesaid facts disposed of the Writ Petition observing that it is for the State Government to expedite orders on the proposals of the Executive Officer to absorb the volunteers / unit workers into regular establishment of T.T.D. It was further held that the Government shall

pass final orders in the matter within a period of three months from the date of receipt of the judgment and that in the meanwhile arrangement of monthly remuneration at the rate of Rs.650/- shall be continued and that in the event of regularization of the petitioners approved by the Government they will be entitled to payment of regular salary from such dates as may be fixed.

Thereafter, the Government accorded sanction for absorption of 1235 persons and accordingly issued G.O.Ms.No.391, Revenue (Endowments-III) Department, dated 06-05-1991. Pursuant to the said orders, the volunteers of Annadanam Canteen were absorbed and regularized with effect from 01-08-1991 in the scale of pay of Rs.740/- - Rs.1150/-. So far as the petitioners in these writ petitions are concerned, it is stated that they worked as volunteers on daily wages in Annadanam canteen, Tirumala, whereas the petitioners in W.P.No.3539 of 1989, W.P.No.8003 of 1990 and W.P.No.9373 of 1994 wherein this Court granted interim orders for payment of arrears in the scale of pay were working as volunteers in T.T.D. The nature of the work of the volunteers in T.T.D. is entirely different from that of the work of the volunteers of Annadanam Canteen. The posts are also not inter-transferable. They are not similarly situated employees. The volunteers in Annadanam Canteen were absorbed in the cadre of Helpers and the volunteers in Devasthanam were absorbed in the cadre of Attenders. Thus, the specific plea of the respondent is that the petitioners who have been working as volunteers in Annadanam Canteen and whose services were regularized as per G.O.Ms.No.391, dated 06-05-1991 are entitled to minimum time scale of pay from the date of absorption i.e., 01-08-1991 only.

I have heard the learned Counsel for the petitioners as well as the learned Standing Counsel appearing for Tirumala Tirupati Devasthanams.

The services of all the petitioners herein have already been

regularized as per G.O.Ms.No.391, dated 06-05-1991 with effect from 01-08-1991. There is no dispute about the fact that from 01-08-1991 onwards they are being paid the time scale of pay applicable to the respective posts held by them. The claim in these Writ Petitions is only with regard to the payment of the same scale of pay for the period prior to their regularization of service. Their contention is that they are entitled to the scale of pay on par with regular employees from the date of their initial appointments since they have been discharging the duties similar to regular employees.

At the outset, it is to be noted that the plea of the petitioners that they have been discharging the duties similar to regular employees of T.T.D. has been specifically denied by the respondent. Such a disputed question of fact cannot be gone into by this Court in exercise of jurisdiction under Article 226 of the Constitution of India. Hence, I decline to express any opinion on the said question and it is always open to the petitioners to work out appropriate remedy as available under law, so that the rival claims of the respective parties can be decided on the basis of the evidence adduced by them.

However, the learned Counsel for the petitioners vehemently contended that since some of the similarly situated persons who filed Writ Petitions Nos.3539/1989, 8003/1990 and 9373/1994 were already paid the arrears in the minimum time scale of pay, denying the same benefit to the petitioners would amount to discrimination violating Article 14 of the Constitution of India.

In the counter-affidavit, it is explained that in the abovesaid three writ petitions interim directions were granted for payment of arrears in the scale of pay, and in compliance with the same the petitioners therein were paid the arrears subject to the result of the writ petitions. Admittedly in these two writ petitions there are no such interim orders. Hence, I am unable to find fault with the respondent in

not extending the similar benefit to the petitioners herein. It is relevant to note that all the aforesaid three writ petitions relied on by the petitioners herein were dismissed as infructuous observing that no further orders are necessary since the grievance of the petitioners therein has been redressed. Since there is no adjudication on merits, the interim order granted in the said writ petitions cannot be taken as a precedent to grant the relief as sought for in these writ petitions.

It is to be noted that under G.O.Ms.No.391, Revenue (ENDTS.III) Department, dated 06-05-1991, the Government accorded sanction for creation of 1,235 posts in various departments in T.T.D as on that date so as to enable the Executive Officer, T.T.D. to absorb the persons working as unit workers / volunteers including guides etc., for regularization extending regular scale of pay in relaxation of the employment exchange procedure and the rule of reservation. There is nothing in the said order to indicate either expressly or impliedly that it takes effect retrospectively. Hence, the respondent has rightly regularized the services of the employees with effect from 01-08-1991. As a matter of fact, the petitioners never challenged the validity of the said G.O., claiming regularization with anterior date from the date of their initial appointment. Long thereafter they have come up with the present writ petitions claiming payment of wages in the minimum scale of pay on par with the regular employees even for the period prior to their regularization on the ground that they have been discharging the duties similar to regular employees. As expressed above, the said claim which involves disputed questions of fact cannot be decided by this Court while exercising writ jurisdiction under Article 226 of the Constitution of India. Hence, the relief as prayed for cannot be granted.

In the circumstances, both the Writ Petitions are dismissed granting liberty to the petitioners to work out the appropriate remedy as available under law. There shall be no order as to costs.

18th June, 2004.

gbs

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To
1. The Executive Officer,Tirumala Tirupathi Devasthanam, Tirupathi, Chittoor District.
2.2CD copies

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